

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

MARION GALE HICKS,

Plaintiff,

v.

Civil Action No. 2:10-00531

MICHAEL J. ASTRUE,

Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is plaintiff's motion to remand for further proceedings before the Commissioner, filed October 22, 2010.

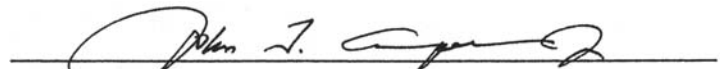
In her Proposed Findings and Recommendation ("PF&R") filed June 29, 2011, Mary E. Stanley, United States Magistrate Judge, recommends that the court grant plaintiff's motion for remand, reverse the Commissioner's final decision, and remand the claim for consideration of new evidence pursuant to the sixth sentence of 42 U.S.C. § 405(g). The magistrate judge offers a detailed analysis respecting, inter alia, why new evidence identified by plaintiff is relevant and material and why there is good cause for plaintiff's failure to submit the evidence when the claim was before the Commissioner. Neither plaintiff nor the Commissioner objected to the PF&R.

Having reviewed the matter de novo, the court concludes that the recommended disposition is correct. Accordingly, it is ORDERED as follows:

1. That the PF&R be, and it hereby is, adopted by the court and incorporated herein;
2. That plaintiff's motion for remand be, and it hereby is, granted;
3. That the decision of the Commissioner be, and it hereby is, reversed and this claim is remanded to the Commissioner for consideration of new evidence pursuant to the sixth sentence of 42 U.S.C. § 405(g), which proceedings shall include consideration of, and discussion by, the Administrative Law Judge of the matters set forth in the PF&R at pages 12 to 13 and 22 to 24; and
4. That this matter be, and it hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and any unrepresented parties.

DATED: August 1, 2011

  
John T. Copenhaver, Jr.  
United States District Judge